

Message Text

PAGE 01 STATE 196212 TOSEC 200146

62

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TO USDEL SECRETARY IMMEDIATE

S E C R E T STATE 196212 TOSEC 200146

EXDIS

E.O. 11652: GDS

TAGS: PFOR, FAO, OCON, VN, VS

SUBJECT: ACTION MEMORANDUM: VIETNAMESE PARTICIPATION IN
REGIONAL FAO CONFERENCE (S/S NO. 7616954)

FOR THE SECRETARY FROM IO-BAKER, ACTING, EA-MILLER,
ACTING, THROUGH HABIB

1. THE PROBLEM:

WE HAVE JUST LEARNED THAT THE SOCIALIST REPUBLIC OF
VIETNAM IS EXPECTED TO SEND A DELEGATION TO PARTICIPATE
OFFICIALLY IN THE FOOD AND AGRICULTURAL ORGANIZATION'S
REGIONAL CONFERENCE FOR ASIA AND THE FAR EAST. THE
CONFERENCE IS BEING HELD IN MANILA, AND RUNS FROM
AUGUST 5 TO 13, BUT THE VIETNAMESE ARE NOT EXPECTED TO
SHOW UP UNTIL MONDAY, AUGUST 9 WHEN THE PLENARY BEGINS.
THIS WILL BE THE FIRST APPEARANCE AT AN INTERNATIONAL
SECRET

PAGE 02 STATE 196212 TOSEC 200146

CONFERENCE OF THE NEWLY ESTABLISHED SRV. OUR DELEGA-
TION IN MANILA WILL REQUIRE YOUR INSTRUCTIONS ON WHAT
POSITION TO TAKE ON VIETNAMESE PARTICIPATION.

2. BACKGROUND:

UP UNTIL NOW THE VARIOUS STATES OF VIETNAM HAVE PARTICIPATED IN SEVERAL UN SPECIALIZED AGENCIES. SPECIFICALLY:

-- THE DRV HAD AN OBSERVER DELEGATION AT THE SECOND WORLD FOOD COUNCIL (WFC) WHICH WAS HELD BETWEEN JUNE 14 AND 17 IN ROME.

-- THE DRV IS PRESENTLY A MEMBER OF BOTH THE WORLD HEALTH ORGANIZATION AND THE WORLD METEOROLOGICAL ORGANIZATION.

-- THE REPUBLIC OF VIETNAM (GVN) REMAINS THE MEMBER OF RECORD IN THE FAO AND IN THE FAO REGION FOR ASIA AND THE FAR EAST. IT IS, IN FACT, THE MEMBER OF RECORD IN MOST UN SPECIALIZED AGENCIES.

IF THE SRV ARRIVES AT THE CONFERENCE, AS EXPECTED, IT PRESUMABLY WILL BE RESPONDING TO AN FAO INVITATION EXTENDED ROUTINELY IN EARLY JUNE TO THE REPUBLIC OF SOUTH VIETNAM AND WILL EXPECT TO BE TREATED AS A SUCCESSOR STATE. OUR FAO DELEGATION IN ROME CONFIRMS THIS ALSO IS THE FAO'S EXPECTATION. IF THE SRV APPLIES FOR MEMBERSHIP OR OBSERVER STATUS AS A NEW STATE, ITS APPLICATION WOULD CONSTITUTIONALLY HAVE TO BE CONSIDERED FIRST BY THE NEXT FAO CONFERENCE WHICH WILL MEET IN NOVEMBER 1977. HOWEVER, IF THE SRV ATTEMPTS TO TAKE A SEAT AS A SUCCESSOR STATE TO THE GVN, THERE IS PRECEDENT TO SUPPORT THE POSITION THAT SUCH SEATING IS AUTOMATIC AND DOES NOT REQUIRE FORMAL APPROVAL BY THE INTERNATIONAL ORGANIZATION CONCERNED. EVEN IN SUCH A CASE WE COULD MAKE A CREDITABLE LEGAL ARGUMENT THAT THE DECISION WHETHER THE SRV IS A LEGITIMATE SUCCESSOR SHOULD BE MADE BY THE FAO CONFERENCE IN 1977, NOT BY A REGIONAL MEETING.

SECRET

PAGE 03 STATE 196212 TOSEC 200146

3. ANALYSIS:

AS WE SEE IT, AMONG THE KEY FACTORS WHICH YOU SHOULD TAKE INTO ACCOUNT IN REACHING YOUR DECISION ARE:

-- YOU HAVE POSTPONED FOR THE TIME BEING MAKING A DECISION ON VIETNAMESE MEMBERSHIP IN THE IBRD AND IMF.

-- THE SRV SEEMS INTENT ON PARTICIPATING IN THE FAO REGIONAL CONFERENCE. IT IS UNLIKELY THAT WE WILL BE ABLE TO FIND A DEVICE TO POSTPONE OR OTHERWISE DEFER DECISION. THE SEATING IS APT TO TAKE PLACE ROUTINELY UNLESS A MEMBER MAKES A SPECIFIC OBJECTION. BASED ON

PAST PRACTICE THE LEGAL ADVISOR CAN BE EXPECTED TO
RULE THAT THE SRV CAN BE SEATED AS A SUCCESSOR STATE.

-- THE SEATING OF THE SRV MAY BE PUBLICIZED TOGETHER
WITH THE POSITION WE TAKE.

-- IN A VOTING SITUATION, WE WILL BE ALMOST CERTAINLY
ISOLATED, PERHAPS TOTALLY SO (A LIST OF PARTICIPANTS
IN THE CONFERENCE IS AT PARA 8).

-- NEVERTHELESS, WE CAN MAKE A FAIR LEGAL CASE THAT THE
REGIONAL CONFERENCE DOES NOT HAVE THE AUTHORITY TO
SEAT THE SRV IN LIGHT OF THE CONTROVERSY OVER ITS
CLAIM TO BE A SUCCESSOR STATE TO THE GRV AND THAT THE
DECISION SHOULD BE RESERVED FOR THE FAO'S GENERAL
CONFERENCE IN NOVEMBER 1977.

4. OPTIONS:

ACCORDINGLY, THERE SEEM TO BE TWO BASIC OPTIONS
AVAILABLE: CONTESTING THE ISSUE ON ITS MERITS, OR
ACQUIESCING IN THE SEATING OF THE SRV, WITH A STATEMENT
OF RESERVATION FOR THE RECORD.

A. CONTESTING THE SEATING: WE COULD, IN ADVANCE,
URGE THE REGIONAL CONFERENCE'S LEGAL ADVISOR TO RULE
THAT THE SRV IS NOT A LEGITIMATE SUCCESSOR STATE TO
THE RVN BUT INSTEAD IS A NEW ENTITY WHICH WOULD HAVE
SECRET

PAGE 04 STATE 196212 TOSEC 200146

TO APPLY FOR MEMBERSHIP AT THE CONFERENCE IN 1977. IF
HE OR THE CHAIRMAN SO RULED, THEN IT WOULD BE UP TO
A PARTICIPANT IN THE CONFERENCE TO ISSUE A CHALLENGE,
AND CALL FOR A VOTE TO OVERTURN HIS RULING. IF THE
LEGAL ADVISOR INSTEAD SHOULD RULE THAT THE SRV IS A
LEGITIMATE SUCCESSOR STATE THEN IT WOULD BE UP TO US
TO CHALLENGE THAT DECISION ON THE FLOOR OF THE
CONFERENCE AND FORCE A VOTE. NO OTHER MEMBER WILL CALL
FOR A VOTE.

PROS:

-- WE WOULD BE ON RECORD AS INSISTING THAT THE RULES
OF THE ORGANIZATION BE UPHELD IN ANY SEATING SITUATION.
NO EXCEPTIONS SHOULD BE MADE FOR THE SRV OR ANY OTHER
CLAIMANT TO A SEAT.

-- OUR PUBLIC POSITION WOULD BE MADE ABUNDANTLY CLEAR.

-- IT IS MORE LIKELY TO BE CONSISTENT WITH OUR
POSITION ON VIETNAM'S APPLICATION FOR UN MEMBERSHIP
WHICH PRESUMABLY WILL BE BASED ON POLITICAL RATHER
THAN CONSTITUTIONAL CONSIDERATIONS.

CONS:

-- WE WOULD BE SETTING A PRECEDENT PREMATURELY ON THE SUCCESSION ISSUE. SUCH A PRECEDENT WOULD PARTICULARLY PREJUDICE OUR POSITION IN THE INTERNATIONAL FINANCIAL INSTITUTIONS THAT THE NEW GOVERNMENT IS RESPONSIBLE FOR LOAN OBLIGATIONS OF THE FORMER REPUBLIC OF VIETNAM. IT MIGHT ALSO POSSIBLY PREJUDICE OUR OWN BILATERAL CLAIMS AT A LATER DATE.

-- WE WOULD LOSE THE VOTE, ALTHOUGH IF THE LEGAL ADVISOR RULED INITIALLY IN FAVOR OF NOT SEATING THEN IT IS CONCEIVABLE THAT THE MARGIN OF LOSS WOULD BE SLIGHTLY LESS.

-- WE WOULD BE CRITICIZED FOR STIMULATING A POLITICAL DEBATE IN A TECHNICAL BODY. WE WOULD BE THE PRINCIPAL TARGET OF MOST OF THE SPEAKERS, RATHER THAN THE SRV.
SECRET

PAGE 05 STATE 196212 TOSEC 200146

-- IT WOULD BE INTERPRETED AS AN ACT OF POLITICAL HOSTILITY TO THE SRV DESIGNED TO DENY THEM ACCESS TO SPECIALIZED AGENCIES WHICH ARE DISPOSED TO ASSIST THEIR RECOVERY.

-- OUR STAND COULD BE TURNED AGAINST US IN SEVERAL REGIONAL FAO CONFERENCES, BOTH IN ASIA AND IN LATIN AMERICA WHERE THE LEGITIMACY OF OUR MEMBERSHIP HAS BEEN UNDER FIRE.

B. ISSUE STATEMENT FOR THE RECORD: WE COULD ALLOW THE SEATING OF THE SRV BY AVOIDING CHALLENGE ON A VOTING SITUATION AND SIMPLY STATE FOR THE RECORD THAT: "THE UNITED STATES NOTES THAT, WITH RESPECT TO THE SEATING OF THE DELEGATION OF THE SOCIALIST REPUBLIC OF VIETNAM, THIS CONFERENCE APPEARS TO HAVE TAKEN A POSITION ON A MEMBERSHIP AND PARTICIPATION ISSUE WHICH IS PROPERLY THE PREROGATIVE OF THE FAO'S GENERAL CONFERENCE. WE, THEREFORE, RESERVE OUR POSITION ON THE MATTER UNTIL IT IS RAISED IN THE NORMAL MANNER IN THE FAO CONFERENCE." WE WOULD MAKE CLEAR THAT WE SHOULD NOT BE CONSIDERED A PART OF ANY DECISION TAKEN.

PROS:

-- WE WOULD AVOID TAKING A POSITION ON THE ISSUE OF SUCCESSION.

-- ISOLATION ON THE QUESTION WOULD THEREBY NOT BE DRAMATIZED.

-- OUR POSITION WOULD BE BASED MORE CLEARLY ON
CONSTITUTIONAL GROUNDS, LEAVING US WITH POLITICAL
FLEXIBILITY IN CASES OF FUTURE SRV APPLICATIONS FOR
MEMBERSHIP IN OTHER INTERNATIONAL BODIES.

CONS:

-- IT WOULD BE INTERPRETED BOTH BY THE CONFERENCE
PARTICIPANTS AND BY THE PUBLIC AS ACQUIESCENCE BY THE
SECRET

PAGE 06 STATE 196212 TOSEC 200146

UNITED STATES IN THE INEVITABILITY OF SRV MEMBERSHIP
NOT ONLY IN THE SPECIALIZED AGENCIES BUT IN THE UNITED
NATIONS ITSELF.

-- OUR FAILURE TO FORCE THE ISSUE WOULD RISK DOMESTIC
POLITICAL CRITICISM.

5. RECOMMENDATIONS:

THAT YOU APPROVE THE TELEGRAM AT PARA 6 WHICH INSTRUCTS
OUR DELEGATION NOT TO MAKE AN ISSUE OF SEATING OF THE
SRV, RESTRICTING OUR REACTION TO A STATEMENT OF
RESERVATION.

APPROVE: DISAPPROVE:

ALTERNATIVELY, THAT YOU APPROVE THE TELEGRAM AT PARA 7
WHICH INSTRUCTS OUR DELEGATION TO CHALLENGE THE SEATING,
FIRST WITH THE LEGAL ADVISOR, AND THEN ON THE FLOOR
BY INSISTING ON A VOTE IF NECESSARY.

APPROVE: DISAPPROVE:

6. TELEGRAM RE SEATING OF SRV:
ACTION MANILA NIACT IMMEDIATE

INFO ROME FOR FODAG, USUN NEW YORK, USMISSION
GENEVA

EO 11652 GDS

TAGS PFOR, FAO, OCON, VN, VS

SUBJECT VIETNAMESE PARTICIPATION IN THE FAO REGIONAL
CONFERENCE

MANILA FOR USDEL TO FAO REGIONAL CONFERENCE

1. IN DEALING WITH THE QUESTION OF SRV PARTICIPATION
IN THE REGIONAL CONFERENCE, YOU SHOULD BE GUIDED BY
THE CONSIDERATIONS THAT WE WISH TO MAINTAIN POLITICAL

SECRET

PAGE 07 STATE 196212 TOSEC 200146

FLEXIBILITY ON OUR POSITION WITH RESPECT TO FUTURE
SRV PARTICIPATION IN INTERNATIONAL CONFERENCES AND
ORGANIZATIONS.

2. ACCORDINGLY, SHOULD THE SRV SEEK TO PARTICIPATE AS
SUCCESSOR STATE TO THE RVN, OR OTHERWISE SEEK TO
PARTICIPATE AS A MEMBER, YOU SHOULD RESTRICT YOUR
REACTION TO THE FOLLOWING STATEMENT: QTE: THE UNITED
STATES NOTES THAT, WITH RESPECT TO THE SEATING OF THE
DELEGATION OF THE SOCIALIST REPUBLIC OF VIETNAM, THIS
REGIONAL CONFERENCE APPEARS TO HAVE TAKEN A POSITION
ON A MEMBERSHIP AND PARTICIPATION ISSUE WHICH IS
PROPERLY THE PREROGATIVE OF THE FAO'S CONFERENCE. WE,
THEREFORE, RESERVE OUR POSITION ON THE MATTER UNTIL
IT IS RAISED IN THE NORMAL MANNER IN THE FAO CONFERENCE.
END QTE.

3. THE FOREGOING STATEMENT SHOULD NOT BE HIGHLIGHTED
AND MAY BE INCLUDED IN THE DELEGATION'S OPENING
STATEMENT ON THE TECHNICAL ISSUES BEFORE THE CONFERENCE.
THE STATEMENT SHOULD ALSO SERVE AS GUIDANCE IN THE
EVENT OF PRESS INQUIRIES.

4. THE FOREGOING POSITION IS BASED UPON THE ASSUMPTION
THAT THE SRV WILL SEEK TO PARTICIPATE AS A MEMBER,
IMPLICITLY OR EXPLICITLY THE SUCCESSOR STATE TO THE
RVN. WE ALSO ASSUME THAT SHOULD THE ISSUE OF THE
SRV'S SEATING COME TO A VOTE IN THE CONFERENCE WE
WOULD LOSE OVERWHELMINGLY. SHOULD ANY OF THESE
ASSUMPTIONS NOT BE VALID, YOU SHOULD REPORT IMMEDIATELY
WITH YOUR ANALYSIS AND YOUR RECOMMENDATIONS.

5. FOR EMBASSY: WE WOULD APPRECIATE EMBASSY'S
GIVING ITS ATTENTION TO THIS MATTER AND PROVIDING ITS
GUIDANCE AND JUDGMENT TO THE DELEGATION AND TO THE
DEPARTMENT.

7. TELEGRAM CHALLENGING SEATING OF SRV:

ACTION MANILA NIACT IMMEDIATE

SECRET

PAGE 08 STATE 196212 TOSEC 200146

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TAGS PFOR, FAO, OCON, VN, VS

SUBJECT VIETNAMESE PARTICIPATION IN THE FAO
REGIONAL CONFERENCE

MANILA FOR USDEL TO FAO REGIONAL CONFERENCE

1. WE CONCLUDE FROM REFTTEL THAT THE SRV WILL SEEK TO PARTICIPATE IN THE REGIONAL CONFERENCE AS A SUCCESSOR STATE TO THE RVN AND THUS AS A MEMBER. IN THAT EVENT YOU SHOULD SEEK TO CONTEST THE SEATING OF THE SRV EVEN THOUGH SHOULD THE MATTER BE BROUGHT TO A VOTE BEFORE THE REGIONAL CONFERENCE WE WOULD LOSE THAT VOTE OVERWHELMINGLY. THE GENERAL THRUST OF OUR POSITION SHOULD BE THAT CONSTITUTIONAL PROCEDURES SHOULD BE OBSERVED AND THAT EXCEPTIONS SHOULD NOT BE MADE FOR ANY STATE, INCLUDING THE SRV.

2. WITHOUT KNOWING PRECISELY WHAT THE LEGAL SITUATION IS AT THE CONFERENCE, IT OCCURS TO US THAT YOUR BEST TACTIC WOULD BE FIRST TO CONTACT THE DIRECTOR-GENERAL AND THE LEGAL ADVISOR TO THE CONFERENCE AND URGE HIM, IN THE EVENT THAT THE SRV SHOULD SEEK TO BE SEATED AS SUCCESSOR STATE TO THE RVN, TO RULE THAT THE SRV IS NOT ENTITLED THUS TO BE SEATED BECAUSE:

-- THE SRV IS A SUCCESSOR TO TWO FORMER STATES, ONLY ONE OF WHICH WAS A MEMBER OF THE FAO AND THE FAO REGION.

-- A REGIONAL CONFERENCE IS NOT EMPOWERED EITHER TO ACCEPT NEW MEMBERS OR TO RULE ON MEMBERSHIP QUESTIONS. THIS MUST BE REFERRED TO THE FAO CONFERENCE TO BE HELD IN NOVEMBER 1977.

3. SHOULD THE LEGAL ADVISOR RULE IN THIS FASHION, WE ASSUME THAT HIS DECISION WILL BE CONTESTED ON THE
SECRET

PAGE 09 STATE 196212 TOSEC 200146

FLOOR OF THE CONFERENCE. IN THAT EVENT, YOU SHOULD VOTE TO UPHOLD THE RULING IN THE INTERESTS OF PRESERVING PROPER LEGAL PROCESS AND PROCEDURE.

4. HOWEVER, SHOULD THE LEGAL ADVISOR RULE THAT THE SRV IS THE RVN'S PROPER SUCCESSOR AND IS ENTITLED TO SIT IN THE REGIONAL CONFERENCE, YOU SHOULD CHALLENGE THE RULING ON THE FLOOR OF THE CONFERENCE AND, DRAWING ON ARGUMENTS IN PARA 2 ABOVE AND ASSERTING THE NEED TO OBSERVE CONSTITUTIONAL PROCEDURES WITHOUT EXCEPTIONS, REQUEST A VOTE.

5. THE FOREGOING GUIDANCE IS BASED ON THE ASSUMPTION THAT THE SRV WILL SEEK TO BE SEATED AS THE RVN'S

SUCCESSOR OR IN SOME OTHER CAPACITY THAT WILL ALLOW IT TO FUNCTION AS A MEMBER. ON THESE MATTERS, AS WELL AS ON GENERAL TACTICS, WE WOULD APPRECIATE THE DELEGATION'S ASSESSMENT AND RECOMMENDATIONS AND ANY ADDITIONAL INFORMATION WHICH IT CAN PROVIDE.

6. FOR EMBASSY: WE WOULD APPRECIATE EMBASSY'S GIVING ITS ATTENTION TO THIS MATTER AND PROVIDING ITS GUIDANCE AND JUDGMENT TO THE DELEGATION AND TO THE DEPARTMENT.

8. FOLLOWING IS THE ANTICIPATED PARTICIPATION IN FAO REGIONAL CONFERENCE

AUSTRALIA	INDONESIA	NEPAL
BANGLADESH	JAPAN	NEW ZEALAND
BURMA	PAKISTAN	
CAMBODIA	KOREA, REPUBLIC OF	PHILIPPINES
CHINA (PRC)	LAOS	PORTUGAL
FIJI	MALAYSIA	SRI LANKA
FRANCE	MALDIVES	THAILAND
INDIA	MONGOLIA	UNITED STATES

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CLEARANCES: L/UNA:RSTOWE (DRAFT); IO:JABAKER
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PAGE 10 STATE 196212 TOSEC 200146

EA:RHMILLER; S: HCOLLUMS

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